

1866-006 Chancery Causes: Abraham R. Surgenner vs. John W. M. Ely &c
Lee Co.

Loyd, Young, Arey

CA-Debt
T-Property

To the Honorable, the Judge of the Circuit
Court of Lee County Virginia.

The bill of complaint of Abraham R.
Surgeon of said County respectfully represents
that at the March Term of the County Court of said
County for the year 1860, One John W. M. Ely, who
sued for the benefit of James I. Loyd and James
Mc. Young, Administrators of the Estate of John
Arey Deceased, obtained ^{final} judgment against your
Orator for the sum of ~~Eighty five~~ ^{Eighty five} Dollars, with
legal interest thereon from the 2nd day of August
1859 till payment, and the costs, amounting to
\$6.51. The note on which ^{said} judgment was obtained
was executed by your Orator, in consideration
of an exchange of horses, between said Ely
and your Orator. Your Orator afterwards sold
the horse which he had gotten in the exchange
with Ely, to said John Arey in his lifetime,
for the sum of One hundred & eighty two
Dollars and fifty cents, due about the 1st of
last October, November, or December. Said note
will be filed and will show the true time
when it is due. After said Arey had executed
said note to your Orator, he obtained ^{by purchase} from
said Ely, the note executed by your Orator to
said Ely, and expressly agreed, with your Orator,
that the note held by your Orator against him
was to be set off against the note he had
purchased from Ely on your Orator.
Shortly afterwards the said Arey departed this life,
without having complied on his part with the prom-
ise above stated, and the note on which said judg-
ment was obtained, went into the hands of said Loyd
& Young, his personal Representatives who refused
to settle the said note in the way agreed on by

said Troy, in his life time. But they brought May the C. Wealth's writ of Spa issue
suit on said note and prosecuted it to judgment V.L. Sharp for Comptt
and are now harrasing your Orator with an ex-
ecution on his property. Your Orator was preven-
ted from making his defence at Common Law,
by reason of indispensable absence from this State. He had a drove of horses on hand, and
was compelled to accompany them to Market, and did not get back in time to put in a defence
to said suit. ~~and by reason of your Orator being~~ and belief. Given under my hand this
~~without~~ The Estate of said John A. Troy Decd. 5th day of June 1860.
is nearly entirely insolvent. And if your Orator
should be forced to pay the debt to said Estate,
he could make nothing on his debt out of said
Estate if he sued on it, and consequently would
lose his debt against said estate and pay the
debt owed by him to the said estate.

Your Orator being without an adequate
remedy at Common Law, and relievable
in a Court of Equity only, his prayer there-
fore is that the said John W. M. Ely, and James
T. Soyd and James M. Young be made parties
Defendant to this bill and be required to
answer the several allegations thereof fully
and completely on oath, that your Honor
make an order enjoining them and all other
persons from enforcing the said judgment
untill the further order of the Court in the
premises, that on final hearing of the case
the injunction be made perpetual. And
~~that~~ a decree be rendered in favor of your
Orator for the excess of the debt due to him from
said Estate after deducting the amount of the debt
due from your Orator to said Estate. And your
Orator will ever pray &c

Virginia See County to wit,

This day Came Abraham R. Surgenor
^{Commissioner in charge of the peace}
before me the undersigned Justice of the Peace
for said County, and made oath that
the statements contained in the preceding
bill are true, to the best of his knowledge
and belief. Given under my hand this
5th day of June 1860.

(J.P.)
W. H. Morgan Comr.

Abraham S. Burdick

vs Bill Chy.

Joyd & Young Admrs

Upon Compt's executing
& filing a release of errors
in the suit at law, and
upon the execution of
bond with good security
in a penalty double
the amount of the judg-
ment complained of,
with conditions, as the
law requires, an In-
junction is granted to
restrain the defts from
further proceeding upon
said judgement until
the further order of Court.

Saml. V. Sullivan
8 June 1860

C. Cir. C. Sec. co.

1860 A.B. Bill filed
D. Jr. Sept R.E.N. Conf
answer filed at
Oct term 1860 by leave
of the Court & caused
for hearing. by Sept,
1860 Octr Decree & cont.
1863. May Contd.
1866. April - Dismissed.

6 3.42
u 18.00
\$18.42

To the Honorable Samuel V Falkerson, Judge
of the Circuit Court of Lee County:

The answer of James T Loyd &
James M Young Adms of the estate of John Arey
Deed, to the bill of complaint of Abraham
R Surgenor filed in this Honorable court
against them Defts and Others, after first reserving
to themselves the benefit of all just and proper
exceptions to said bill for its manifold errors, imper-
fections, misrepresentations &c; for answer thereto
say that it true as stated in Complt's bill that
at the March term of the County Court of Lee
County, ¹⁸⁶⁰ they obtained a judgment at Law in said
Court against Complt for the sum of \$85.00
with interest from the 2nd day of August 1859
also \$6.51 costs, It is also true as stated in Complt's
bill that Respondent's intestate in his lifetime did
purchase the horse mentioned in Complt's bill. It
is also true that said Arey in his lifetime executed
his note to Complt for the price of said horse
but these Defts most positively deny the whole
of the other allegations set forth in said bill. These
Defts say that before they brought suit on the
note mentioned in Complt's bill, and also before
the death of said Arey, that Complt, sold
assigned & delivered the note he held on said Arey
and the note mentioned in his Complt's bill to one

Henry Fergusson of Lee County, who still
is the holder & owner of said note: These
Depts also deny that the estate of John Arvey Sr.
is insolvent as stated in Compt's bill - but say that
said estate will be able to pay about 70 cts to the
dollar on its indebtedness; And Respondents
think it would be a very unjust thing to
pay the whole amount of Compt's ^{debt} bill, and leave
other debts of equal dignity unpaid against the
estate of said Arvey - even if Compt had ^{not} at
the time said suit was brought against him have
parted with his interest in the note before
mentioned which he sold to said Fergusson
before the death of said Arvey. Respondents
having answered so much of Compt's bill
as they deem material in this defence - pray
hence to be dismissed with their costs by them in
this behalf expended

D. R. Ham

Lee County Court

This day James T. Loyd personally appeared
before me the undersigned and made oath that
the allegations contained in the foregoing Answer
are true so far as they depend on his own
knowledge & so far as they depend on the information
derived from others he believes them to be true
Given under my hand this 9th day of Oct 1860

H. B. Morgan, C. C.

86
Sagd & Young Adms

ads } Answer

A. R. Surginer

Shoover & Surgeon

vs {

Slord & Young Petrs & H

This cause came on again to be heard this day upon the papers formerly read, as well as upon the decree ^{pronounced} ~~decided~~ in this cause at Oct term 1860 and was argued by counsel, And it appearing to the Court that more than one term of this Court has been holden since the rendition of the decree dissolving the Supplication heretofore awarded in this cause, and no motion having been submitted to reinstate the same, it is therefore adjudged ordered & decreed that Complt's Bill be dismissed & that Defts recover from Jeff their costs by them in their defence expended, And this Cause is stricken from the docket.

Surginer

ms { Final check

Lord & Quincy admn

Entered Page 425)

Enter this order

J. A. C.

Apr. 24. 1884

Chd 159

A R Surgenor

vs

In chy

Jas T Loyd & Jas M Young Advers De Debtors

On motion of the Defts by their counsel leave
is given them to file their answer and the same
was filed - and on their motion the cause is
placed on the motion docket - And on their
further motion it is ordered adjudged and decreed
that the Injunction heretofore granted the Compel
in this cause is hereby dissolved

Lloyd & Young Admsrs &c

ads { Decm

A. R. Sargent

Oct 1860

Enter This

S. V. P.

Ch 159.

Entered-

I hereby release all error which may exist
in a judgment obtained against me by John
M. M. Ely for the benefit of the Administrators
of the Estate of John Arey at the March
Term of the County Court of Lee County 1860.

Given under my hand this 20th day of
June 1860.

A. R. Surzard

20.

Virginia

At a court of quarter Sessions continued and held for Lee
county at the court House thereof on Wednesday the
21st day of March 1860

John W. M. Ely for re. Plaintiff
against

Abraham R. Surgenner Deft.

For Debt,

The defendant not appearing, it is considered by the court
that the judgment obtained against him in the clerk's office
for \$85.00 the debt in the declaration mentioned with legal interest
thereon from the 21st day of August 1859 till payment and
the cost be made final.

Teste

H. Morgan, C. C.

£ 251

2 250

50 00

£ 1 00

0.57

A R Surinmer

add 3 copy Judgt

JH in Ely foot

Fee for copy 20

Know all Men by these Presents, That we *Abraham R Sargener*
and *Joseph Willis*—
are held and firmly bound unto *John W. M. Ely James I Lloyd & James M Young*
in the sum of *one hundred and twenty two dollars* to be
paid unto the said *John W. M. Ely Lloyd & Young* their
executors, administrators or assigns, for the true payment whereof, well and truly to be made, we bind ourselves, our
heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and
dated this *20th* day of *June* 18*60*.

THE CONDITION of the above obligation is such, that whereas, the above bound *A R Sargener*
of *Lee County* an injunction ~~has~~ obtained from the *Judge of the Circuit Court*
~~a supersedeas to a decree pronounced by the Circuit Court for the County of Lee, on the~~
day of *March* 18*60*, in a cause in which *John W. M. Ely* who sues for the
benefit of James I Lloyd James M Young adm^r of the estate of John Ary
Dice plaintiff and *A R Sargener* defendant.

NOW IF THE SAID *A R Sargener* shall well and truly perform and satisfy the said ~~decree~~ *Judgment*, in case the same shall be affirmed, or the ~~supersedeas~~ *injunction* be
~~dismissed~~ *dismissed*, and also pay all such damages, costs and fees which may be awarded against *him* then this obligation
to be void, otherwise to remain in full force.

Attest
R. M. Hamilton

A R Sargener { SEAL. }
Joseph Willis { SEAL. }
adorn

A R Surgenor
vs { Surety-Bond

Wm Ely & al

Bond filed 20th June 1860
Wm Hamblen & Co

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING :

WE COMMAND YOU TO SUMMON

*John W. M. Ely, James T. Loyd,
and James M. Young.*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

August

Rules next, to answer *a bill in chancery*

*exhibited in our said Court against them
by Abraham W. Surgenor.*

And have then there this writ. Witness, RICHARD M. HAMBLÉN, Clerk of our said Court, at the Court House,
this *26th* day of *June* 1860, in the *84th* year of the Commonwealth.

R. M. Hamblen CR

Abraham W. Surgenor

vs Spain City

Loyd & Young adm^{rs}

August Rules 1860

July the 4th 1860

Executed on James
M. Young by handing
him a true copy and
on James T. Lacy by
Loring a copy with P. H.
Allen he being a member
of his family and a
white person over the
age of sixteen years old
Samuel & Seal AS

July 16th 1860

Executed on
John W. M. Cely
D. Pollock AS

Ad 161

to restrain the defendants from further proceeding
on the judgment in the well mentioned writ,
the further order of the Court.
Note N. J. M. Chambers etc